IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5508 OF 2007

Dr. N.D. Patil .... Petitioner

versus

Sou. Vasanti Suhas Tembe..... Respondent.

Shri Satyajeet M. Mirajkar for the petitioner

CORAM; A.P. DESHPANDE, J.
DATED; 11TH SEPTEMBER, 2007

P.C.;

1. The respondent landlord has instituted a suit against the petitioner tenant for seeking possession of the tenanted premises on the ground that the landlord bonafidely and reasonably require the tenanted premises for personal occupation. The suit is of the year 1989. Civil Appeal filed in the year 1998 is pending on the file of the First Appellate Court. Perusal of the order reveals that the First Appellate Court has remanded the matter for recording of evidence before the trial court and after the said exercise was over, the present petitioner filed an application for amendment, contending therein that the landlord has purchased a flat opposite the suit premises and hence the need of the landlord does not subsist. The respondent filed his reply Exh.49 and

submitted that the proposed amendment is based on total false allegations as the respondent has not purchased any property. The First Appellate Court has observed in the impugned order that the petitioner has failed to primafacie establish that the respondent has purchased a flat. It is then observed that in the amendment application no particulars in regard to the flat, alleged to have been purchased, are furnished. Amendment application is silent about the name of the building, the number of the flat, the floor on which the flat is situated, leave aside the other particulars such as the sale deed etc. Hence the First Appellate Court has held that the proposed amendment is not bonafide and hence rejected the same.

2. Perused the order. The same does not call for any interference in exercise of writ jurisdiction. In the absence of any primafacie case being made out that the landlord has purchased the flat, the impugned order cannot be faulted. Hence writ petition is summarily dismissed.

3. The learned counsel at this stage submits that the petitioner be permitted to move an appropriate application containing the details. If permissible in law, the petitioner may move an application to that effect before the First Appellate Court.

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